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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,495	06/25/2003	Michael D. Dunda	DUNM 101	5604

7590 12/22/2004

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,495

Applicant(s)

DUNDA, MICHAEL D. 

Examiner

Meredith C Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

NOTE: Applicant states that a preliminary amendment was filed 10/29/2003. However, no preliminary amendment is found in the file wrapper of the case.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. ~~Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Cartier~~
5,408,816, cited by applicant.

Cartier discloses an accessory for a line trimmer (12) that includes a main pole (12a) with a trimmer head. The accessory includes:

- an extension arm (12x, 12y, 12z)
- a wheel assembly (30 and 22) attached to the extension arm and including wheels (32, 34, 22)
- a first clamp member (Figure 1; part holding shaft 44 on)

The first clamp member enables the length of the extension arm between the wheel (22) and trimmer head to be extended. The first clamp member is capable of being attached anywhere on the extension arm, including a position where the distal end of the extension arm extends beyond the trimmer head.

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In regards to claim 3, the accessory includes a second clamp member (50) that enable the pitch of the extension arm relative to the main pole to be adjusted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cartier in view of Smith, 5,287,683.

Cartier discloses the device detailed above. However, Cartier does not disclose providing locking means on the wheels.

Like Cartier, Smith discloses a trimmer accessory having wheels. Unlike Cartier, Smith discloses providing a means to lock the position of the wheels. Smith teaches that this allows the operator to have more control over the movement of the trimmer (Column 3, lines 54-62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wheels in Cartier with locks as in Smith, in order to facilitate the operation of the trimmer.

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Allowable Subject Matter

5. Claims 5-7 and 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 9/17/2004 have been fully considered but they are not persuasive.

Applicant argues 1) that Cartier does not disclose use of an extension arm that is longitudinally aligned with the trimmer's main pole so that the distal end extends forward of the trimmer head, 2) the wheels in Cartier are not attached to the distal end and 3) that there is no suggestion to combine Cartier and Smith.

In response to applicant's first argument, applicant is only claiming the subcombination of the accessory and not the combination of the accessory and the trimmer head with the main pole. Therefore, the accessory only has to be capable of attaching to the main pole so that the extension arm is longitudinally aligned with the trimmer's main pole so that the distal end extends forward of the trimmer head. In Cartier, the main pole of the trimmer is only attached to the first clamp. The first clamp can be attached anywhere on the main pole. Therefore, the first clamp could be attached at the end of the main pole so that the distal end of the extension arm extends forward of the trimmer head. Therefore, the device in Cartier is *capable* of performing this function.

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In response to applicant's second argument, the wheels of Cartier are attached to the distal end of the extension arm because they are attached more than half of the length of the extension arm away from the very end of the proximal end of the extension arm. Merriam-Webster's Collegiate Dictionary, 10th edition, defines end as "the part of an area that lies at the boundary." Therefore, the wheels of Cartier are attached at the distal end of the extension arm.

In response to applicant's third argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestion to combine comes from Smith. Smith teaches that providing a locking means on wheels of a trimmer allows the operator more control over the movement of the trimmer in relation to the wheels (Column 3, lines 54-62).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick
Primary Examiner
Art Unit 3671

December 19, 2004